

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JANE DOE

Plaintiff,

v.

**DECLARATION OF  
MELISSA D.  
WISCHERATH**

ERIE COUNTY,  
TIMOTHY B. HOWARD, Individually and in his  
capacity of Sheriff of Erie County, New York;  
THOMAS DIINA, Superintendent of The Jail  
Management Division, and  
ROBERT M. DEE, Erie County Sheriff's Office  
Deputy at Erie County Holding Center

Case No.: 1:22-CV-00815

Defendants.

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MELISSA D. WISCHERATH, ESQ., makes this declaration under penalties of perjury,  
pursuant to 28 U.S.C. § 1756:

1. I am an attorney representing plaintiff in this matter. I make this declaration in  
opposition to non-party Erie County District Attorney's Office's motion to quash and in support  
of plaintiff's cross-motion to compel the production of records requested via subpoena duces  
tecum.

2. A true and correct copy of excerpted email correspondence between counsel from  
April 15, 2024 to April 26, 2024 is attached hereto as Exhibit 1.

3. A true and correct copy of plaintiff's non-party subpoena duces tecum dated  
March 13, 2024, and the affidavit of service are attached hereto as Exhibit 2.

4. A true and correct copy of the defendants Erie County, Timothy Howard, and Thomas Diina initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure are attached hereto as Exhibit 3.

DATED this 24th day of May, 2024.

/s/ Melissa D. Wischerath  
Melissa D. Wischerath  
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Attorneys for Plaintiff